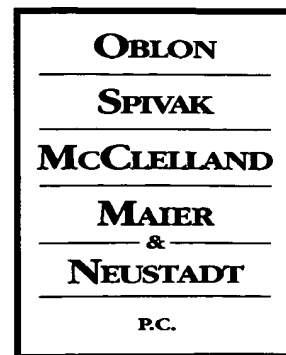


2655



Docket No.: 204567US2S



ATTORNEYS AT LAW

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COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 09/805,538

Applicants: Hideo ANDO, et al.

Filing Date: March 14, 2001

For: OPTICAL INFORMATION PROCESSING SYSTEM
USING OPTICAL ABERRATIONS AND
INFORMATION MEDIUM HAVING RECORDING
LAYER PROTECTED BY TRANSPARENT LAYER
HAVING THICKNESS IRREGULARITY

RECEIVED

AUG 29 2003

Technology Center 2600

Group Art Unit: 2655

Examiner: PATEL, G.

SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Eckhard H. Kuesters

Registration No. 28,870



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DOCKET NO: 204567US2S



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

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9/14/03

IN RE APPLICATION OF :

HIDEO ANDO, ET AL. :

EXAMINER: PATEL, G.

SERIAL NO: 09/805,538 :

FILED: MARCH 14, 2001 :

GROUP ART UNIT: 2655

FOR: OPTICAL INFORMATION :
PROCESSING SYSTEM USING OPTICAL
ABERRATIONS AND INFORMATION
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PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Restriction Requirement dated Aug. 4, 2003, Applicants provisionally elect with traverse Group D, Claims 9-10 directed to "an apparatus for an aberration state detection apparatus detecting wavefront and/or spherical aberration of light," for further examination on the merits. Applicants reserve the right to file one or more divisional applications directed to the non-elected inventions.

The Restriction Requirement asserts that the application contains claims to distinct inventions. However, MPEP § 803 states the following:

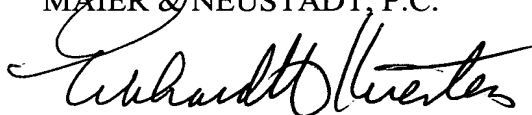
If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Although the outstanding Official Action identifies different search classifications, it is believed that the claims of the present application would have to be searched in only a small handful of sub-classes, all of which are in the same class and thus related. Furthermore, since electronic searching is commonly performed, a search may be made of a large number of, or theoretically all, subclasses without substantial additional effort. Accordingly, Applicants respectfully traverse the Restriction Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner, whereas it would be a serious burden on Applicants to prosecute and maintain six separate applications.

Therefore, it is respectfully requested that the requirement to elect a single group be withdrawn, and that a full examination on the merits of Claims 1-12 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



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